

TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING  
REJECTION OVER A PENDING "REFERENCE" APPLICATION

Docket Number (Optional)

41260.003

In re Application of: Stanley C. Antosh and Anthony J. Meduri

Application No.: 10/710,710

Filed: 07/29/2004

USE OF METHYL PYRUVATE FOR THE PURPOSE OF INCREASING MUSCLE ENERGY PRODUCTION

For:  
ANTOSH & MEDURI HOLDING  
CORPORATION

The owner\*, ANTOSH & MEDURI HOLDING CORPORATION, of 100% percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/711,255, filed on 09/04/2004, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent granted on the pending reference application expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1.  For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2.  The undersigned is an attorney or agent of record. Reg. No. 29,210

Signature

6/3/08

Date

Thomas I. Rozsa

Typed or printed name

(818) 783-0990

Telephone Number

- Terminal disclaimer fee under 37 CFR 1.20(d) is included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

(Terminal Disclaimer to Obviate a Provisional Double Patenting Rejection on 06/03/2008 for Pending Second Application 0710710  
(PTO/SB/25) (9-4.1)

03 FC:2814

—page 1 of 1

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Stanley C. Antosh and Anthony J. Meduri

Application No.: 10 / 710,710 Group No.: 1614

Filed: 07/29/2004

For: Use of Methyl Pyruvate Examiner: Joseph S. Kudla  
for the Purpose of Increasing Muscle Issue Date: \_\_\_\_\_  
Energy Production Patent: \_\_\_\_\_

Issue Date: \_\_\_\_\_

Reexamination No.: \_\_\_\_\_ Issue Date: \_\_\_\_\_

Reissue: \_\_\_\_\_

\*NOTE: Insert name(s) of inventor(s) and title for patent.

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**STATEMENT UNDER 37 C.F.R. § 3.73(b)—  
ESTABLISHING RIGHT OF ASSIGNEE TO TAKE ACTION****CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\***(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

**37 C.F.R. § 1.8(a)****37 C.F.R. § 1.10**

with sufficient postage as first class mail.

as "Express Mail Post Office to Addressee"

Mailing Label No. \_\_\_\_\_ (mandatory)

TRANSMISSION Mail Label No. EM 238297782 US

facsimile transmitted to the Patent and Trademark Office, (571) 273-8300.

Signature

Thomas I. Rozsa

(type or print name of person certifying)

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

NOTE: 37 CFR 3.73(b) states:

"(b)(1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:

(i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office. For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or

(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or

(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee."

1. The assignee(s) of the entire right, title and interest hereby seek(s) to take action in the PTO in this matter.

#### **IDENTIFICATION OF ASSIGNEE**

2. ANTOSH & MEDURI HOLDING CORPORATION

Name of assignee

Corporation

Type of assignee, e.g., corporation, partnership, university, government agency, etc.

#### **PERSON AUTHORIZED TO SIGN**

3. Stanley C. Antosh

(type name of person authorized to sign on behalf of assignee)

President

Title of person authorized to sign

NOTE: The Notice of April 30, 1993 (1150 O.G. 62-64) points out:

"The statement under 37 CFR 3.73(b) may be signed on behalf of the assignee in the following two manners if the assignee is an organization (e.g., corporation, partnership, university, government agency, etc.).

"(1) The statement may be signed by a person in the organization having apparent authority to sign on behalf of the organization. An officer (president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual director. A person having a title (manager, director, administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to be an officer of the assignee or to have authority to sign the statement on behalf of the assignee. A power of attorney from the inventors in an organization to a practitioner to prosecute a patent application does not make the practitioner an official of an assignee or empower the practitioner to sign the statement on behalf of the assignee.

"(2) The statement may be signed by any person, if the statement includes an averment that the person is empowered to sign the statement on behalf of the assignee and, if not signed by a registered practitioner, the statement must be in oath or declaration form. Where a statement does not include such an averment, and the person signing does not hold a position in the organization that would give rise to a presumption that the person is empowered to sign the statement on behalf of the assignee, evidence of the person's authority to sign will be required."

*[Author's Note: The requirement for an oath or declaration for this statement by a person not a registered practitioner was rescinded by the rules effective December 1, 1997.]*

*(complete the following, if applicable)*

- I, the person signing below, state that I am empowered to sign this statement on behalf of the assignee.

## BASIS OF ASSIGNEE'S INTEREST

Ownership by the assignee is established as follows:

**A.**

1.  An assignment from the inventor(s) of the matter identified above, which was recorded in the PTO at  
Reel 019039, Frame 0197
2.  An assignment (document) separately being submitted for recordal herewith.

### AND/OR

**B.**  A chain of title from the inventor(s) to the current assignee as shown below:

**NOTE:** As of November 25, 2005, an assignee establishing ownership by documentary evidence must also submit a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or is concurrently being submitted for recordation pursuant to § 3.11. (37 CFR § 3.73(b)(1)(i)).

1. From: \_\_\_\_\_  
Name of inventor(s)

To: \_\_\_\_\_  
Recorded in PTO: Reel \_\_\_\_\_, Frame \_\_\_\_\_

2. From: \_\_\_\_\_  
Name of inventor(s) or assignee

To: \_\_\_\_\_  
Recorded in PTO: Reel \_\_\_\_\_, Frame \_\_\_\_\_

3. From: \_\_\_\_\_  
Name of inventor(s) or assignee

To: \_\_\_\_\_  
Recorded in PTO: Reel \_\_\_\_\_, Frame \_\_\_\_\_

(check item below, and add details, if applicable)

- Additional documents in the chain of title are listed in the attached Supplemental Sheet.

## COPIES OF DOCUMENTS IN CHAIN OF TITLE

**NOTE:** An assignee establishing ownership by documentary evidence must have either previously submitted such evidence for recordation in the PTO or must concurrently submit such evidence for recordation pursuant to § 3.11 (37 CFR 3.73(b)(1)(i)).

*The evidence of the chain of title*

- was submitted on \_\_\_\_\_ for recordation pursuant to § 3.11  
 is being concurrently submitted for recordation pursuant to § 3.11.

*(complete this item, if copies are being sent)*

- Copies of the assignment(s) or other document(s) in the chain of title are attached as follows:

- A       1       2  
 B       1

*Stanley C. Antosh 6/2/08*

(Signature of authorized person)

Stanley C. Antosh

(type or print name of authorized person)

President

Title of authorized person

Thomas I. Rozsa 6/3/08

**SIGNATURE OF PRACTITIONER**

Thomas I. Rozsa - Rozsa Law Group LC

(type or print name of practitioner)

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